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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,123	06/24/2003	Reinhard Mueller	12816-086001 / S-2438	2227
26161	7590	05/14/2007	EXAMINER	
FISH & RICHARDSON PC			PEZZLO, JOHN	
P.O. BOX 1022				
MINNEAPOLIS, MN 55440-1022				
			ART UNIT	PAPER NUMBER
			2616	
			MAIL DATE	DELIVERY MODE
			05/14/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/603,123

Applicant(s)

MUELLER, REINHARD

Examiner

John Pezzlo

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16, 18-20, 22, 23 and 25-29 is/are rejected.
- 7) ☒ Claim(s) 17, 21 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/24/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/18/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

The priority document (Germany 102.28.574.8) is not in the file. The applicant needs to submit a certified copy of the priority document in order for priority to be considered and approved.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

I. Claims 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 28 and 29 are hybrid claims and need to be written in independent form including the steps of claim 16 and the data stream receiver of claim 25 respectively. See *Ex parte Lyell* (BdPatApp&Int) 17 USPQ2d 1548, 16 August 1990.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

II. Claims 16, 18, 19, 22, 23, 25, 26, 27, 28, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Halpern et al. (US 4,383,322) hereinafter Halpern.

1. Regarding claims 16, 25, 28, and 29 – Halpern discloses providing a digital data stream having successive data stream units, each data stream unit including a data frame, a data block having data bits, and a frame synchronization word having frame synchronization bits, receiving the digital data stream, detecting successive frame synchronization words of the successive data stream units, determining the data clock information from a temporal spacing of the successive frame synchronization words, and outputting the data clock information in a manner dependent on a temporal spacing of successive frame synchronization bits, refer to Figures 1 and 2 and 4 and column 3 lines 20 to 38 and column 4 lines 49 to 60 and column 7 line 54 to column 8 line 33. Halpern discloses a data frame comprising a data block and frame and super frame synchronization bits. Halpern discloses using the subframe and major frame synchronization bits which are in a particular timing order (temporal spacing) to recover the receive data clock.
2. Regarding claims 18 – Halpern discloses preceding the data bits of the data block by two frame synchronization bits, refer to Figures 1 and 2 and column 4 line 49 to column 5 line 27.
3. Regarding claim 19 – Halpern discloses encompassing useful data to be transmitted with the data bits of each data block, refer to Figures 1 and 2 and column 4 line 49 to column 5 line 27.
4. Regarding claim 22 – Halpern discloses including header data in a first data block of each data frame, refer to Figures 1 and 2 and column 4 line 49 to column 5 line 27.

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5. Regarding claim 23 – Halpern discloses superframe synchronization bits in the header data, refer to Figures 1 and 2 and 3 and column 4 line 49 to column 5 line 27.

6. Regarding claim 26 – Halpern discloses a frame detection unit for detecting a frame start, refer to Figures 1 and 2 and 4 and column 3 lines 20 to 38 and column 4 lines 49 to 60 and column 7 line 54 to column 8 line 33.

7. Regarding claim 27 – Halpern discloses a superframe detection unit for detecting a superframe start (major frame start), refer to Figures 1 and 2 and 4 and column 3 lines 20 to 38 and column 4 lines 49 to 60 and column 7 line 54 to column 8 line 33.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

III. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern (same as above).

1. Regarding claim 20 – Halpern does not explicitly a digital data stream comprises providing a 32-bit data block.

At the time of the invention, it would have been obvious to an ordinary person of skill in the art to have a data stream providing a 32-bit data block. The suggestion/motivation for doing so would have been that Halpern discloses a 10-bit data block as an illustration to explain the invention, refer to column 4 lines 35 to 60, and using a 32-bit data block would be convenient for read and write operations to a 16-bit memory, which is standard in the industry. Only two memory reads or writes per block of data.

#### ***Allowable Subject Matter***

Claims 17, 21, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Kato et al. (US 4,544,962) discloses method and apparatus for processing binary data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pezzlo whose telephone number is (571) 272-3090. The examiner can normally be reached on Monday to Friday from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C.

or faxed to:

(571) 273-8300

For informal or draft communications, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Jefferson Building


2A15

500 Dulany Street

Alexandria, VA, 22313.

John Pezzlo

5 May 2007

  
**JOHN PEZZLO**  
**PRIMARY EXAMINER**